

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-142

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF UNITED HEALTHCARE OF COLORADO, INC.,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of United Healthcare of Colorado, Inc., (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated October 9, 2003 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a health maintenance organization.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on October 9, 2003, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the final Report. A copy of the final Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure to correctly and completely list all applicable forms in the Colorado Annual Report of Health Coverage forms. The Respondent shall provide evidence that it revised its procedures to correctly and completely list all applicable forms in its Colorado Annual Report of Health Coverage forms to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue E1 concerns the following violation: Failure of the forms to allow for coverage of otherwise eligible dependents who do not reside within the service area. The Respondent shall provide evidence that it revised all its affected forms to reflect the correct eligibility requirements for dependents to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue E2 concerns the following violation: Failure of the forms to provide coverage for dental care resulting from accidents in all instances required by law. The Respondent shall provide evidence that it revised all its affected forms to modify the restrictions on dental coverage related to accidents to ensure compliance with Colorado insurance law. The

Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue E3 concerns the following violation: Failure of the forms to provide a complete and accurate description of the required hospice care benefits. The Respondent shall provide evidence that it revised all affected forms to reflect correct hospice care benefits to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E4 concerns the following violation: Failure of the Standard Health Benefit Plan forms to exclude co-payments for physician ordered lab and x-ray services. The Respondent shall provide evidence that it revised all affected forms to include a correct description of the co-pay requirements for lab and x-ray services in the Standard Health Benefit Plan forms to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue E5 concerns the following violation: Failure of the forms to provide durable medical equipment benefits in accordance with Colorado insurance law. The Respondent shall provide evidence that it revised all affected forms to reflect correct benefits for durable medical equipment to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue E6 concerns the following violation: Failure of the forms to include the provision of complaint forms to enrollees in its complaint procedures. The Respondent shall provide evidence that it revised all affected forms to include a provision in its complaint procedures to indicate that complaint forms are provided to individuals who wish to file a written complaint to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue E7 concerns the following violation: Failure of the forms, in some instances, to limit the "look-back period" for medical information to five (5) years as required by Colorado insurance law. The Respondent shall provide evidence that it revised all affected forms to reflect only a five (5) year "look-back period" to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue E8 concerns the following violation: Failure of the forms, in some instances, to allow for otherwise eligible employees to enroll in continuation

coverage. The Respondent shall provide evidence that it revised its forms to allow for qualified individuals to enroll in continuation coverage to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

18. Issue E9 concerns the following violation: Failure of the forms to contain a correct definition of a disabled dependent. The Respondent shall provide evidence that it revised its forms to contain a correct definition of disabled dependent to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
19. Issue E10 concerns the following violation: Failure of the forms to provide for modification of health benefit plans in accordance with the requirements of Colorado insurance law. The Respondent shall provide evidence that it revised all affected forms to provide members with notification of plan changes according to the required timeframes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
20. Issue E11 concerns the following violation: Failure of the forms to provide accurate information concerning premium rate setting. The Respondent shall provide evidence that it revised all affected forms to provide accurate information regarding changes in premium rate setting to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
21. Issue E12 concerns the following violation: Failure of the forms to provide coverage for congenital defects and birth abnormalities as mandated by Colorado insurance law. The Respondent shall provide evidence that it revised all affected forms to eliminate the requirement that congenital defects and birth abnormalities must be identified within the first twelve (12) months of life to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
22. Issue E13 concerns the following violation: Failure of the forms to provide correct information regarding changes to premium rates. The Respondent shall provide evidence that it revised all affected forms to provide correct information regarding premium rate changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

23. Issue F1 concerns the following violation: Failure to include required information concerning the choice of either age-banded or composite rates. The Respondent shall provide evidence that it revised its forms to provide the required information concerning the group's right to see renewal rates quoted using either age-banded or composite rates, and to explain differences between the two methods to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
24. Issue G1 concerns the following violation: Failure, in some instances, to secure and maintain signed applications and/or waivers of coverage for eligible employees and/or their dependents in the waiting period at the time of the initial issue or renewal of the group. The Respondent shall provide evidence that it revised its procedures to ensure that all signed applications and/or waivers of coverage for eligible employees and/or their dependents are secured and maintained upon the initial issue of the small employer group, or subsequent to an employee in the waiting period at initial application becoming eligible in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
25. Issue G2 concerns the following violation: Failure, in some instances, to include the required Basic and Standard plan disclosure in small group application materials. The Respondent shall provide evidence that it revised its procedures to ensure that all new small group application materials contain the required Basic and Standard plan disclosure in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
26. Issue G3 concerns the following violation: Failure to obtain the required employer provided listing of eligible dependents. The Respondent shall provide evidence that it revised its procedures to ensure that all small employer groups provide a complete listing of eligible dependents in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
27. Issue G4 concerns the following violation: Failure, in some instances, to include the small group disclosure requirements in new application materials. The Respondent shall provide evidence that it revised its procedures to ensure that all small employer group application materials contain the Small Employer Health Plan disclosure in compliance with Colorado insurance law. The Division's records indicate that the

Respondent has complied with the corrective actions ordered concerning this violation.

28. Issue G5 concerns the following violation: Failure, in some instances, to notify the Commissioner and policyholders prior to the modification and/or discontinuation of Small Employer Group Health Benefit plans. The Respondent shall provide evidence that it revised its procedures to ensure that the Commissioner and all policyholders are notified prior to the modification and/or discontinuation of any Small Employer Group Health Benefit plans in compliance with Colorado Insurance law.
29. Issue H1 concerns the following violation: Failure, in some instances, to provide written notification of denials to small employers whose applications for coverage are denied. The Respondent shall provide evidence that it revised its procedures to include the required written notification to all small employers who are denied coverage to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
30. Issue H2 concerns the following violation: Failure, in some instances, to guarantee issue coverage to small groups of 2-50 employees as required by Colorado insurance law. The Respondent shall provide evidence that it changed its procedures to ensure that groups of 2-50 eligible employees are guaranteed issuance of coverage in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
31. Issue H3 concerns the following violation: Failure to examine all applicable tax returns when determining eligibility of business groups of one. The Respondent shall provide evidence that it modified its procedures pertaining to reviewing tax documentation to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
32. Issue H4 concerns the following violation: Failure, in some instances, to offer Basic and Standard Plan conversion coverage to terminating small employer groups. The Respondent shall revise its procedures to ensure that a choice of the Basic or Standard Health Benefit Plans is offered to each member of the group whose policy is terminating in compliance with Colorado insurance law.
33. Issue J1 concerns the following violation: Failure, in some instances, to request any necessary additional information and/or incorrect denial of eligible charges. The Respondent shall provide evidence that it reviewed and modified its qualify controls to ensure that its processing staff is properly trained to request any additional information necessary to resolve

a claim, and to make appropriate decisions when all required information is present to avoid denying eligible claims in compliance with Colorado insurance law.

34. Issue J2 concerns the following violation: Failure, in some instances, to pay, deny, or settle claims within the time periods required by Colorado insurance law. The Respondent shall provide evidence that procedures are established to ensure that all clean electronic claims are paid, denied or settled within thirty (30) days, all clean non-electronic claims are paid, denied or settled within forty-five (45) days and all claims except where fraud is involved, are paid, denied or settled within ninety (90) days in compliance with Colorado insurance law.
35. Issue J3 concerns the following violation: Failure, in some instances, to pay interest and/or penalties on claims that were not paid or settled within the time periods required by Colorado insurance law. The Respondent shall provide evidence that it revised its procedures to ensure that interest and/or penalties are paid on claims not paid within the time periods required by Colorado insurance law. Respondent shall perform a self-audit and pay any interest and/or penalties due on claims that were not paid or settled as they relate to this violation for the time period beginning January 1, 2002 through January 30, 2004. Respondent shall submit a summary of the findings to the Division on or before May 6, 2004.
36. Issue J4 concerns the following violation: Failure, in some instances, to process claims accurately. The Respondent shall provide evidence that it reviewed and modified its claims processing quality control procedures to ensure that all claims are investigated properly to determine proper allocation of benefits and to eliminate unnecessary delays in payment in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
37. Issue K1 concerns the following violation: Failure, in some instances, to make utilization review determinations and provide required notifications within the timeframes as allowed under Colorado insurance law. The Respondent shall provide evidence that it revised its procedures to ensure that the timeframes for determination and notification of utilization review decisions are in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
38. Issue K2 concerns the following violation: Failure, in some instances, to provide clear and specific notification in the case of utilization review approvals. The Respondent shall provide evidence that it revised its

utilization review approval procedures to ensure that the notification sent to members is in compliance with Colorado insurance law.

39. Issue K3 concerns the following violation: Failure, in some instances, to provide written notice of first level appeal decisions within twenty (20) working days. The Respondent shall provide evidence that it revised its procedures to ensure that written notification of first level appeal decisions is completed within the twenty (20) working day timeframe in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
40. Issue K4 concerns the following violation: Failure, in some instances, to include all required components in first level appeal determination letters. The Respondent shall provide evidence that it revised its procedures to ensure that first level appeal determination letters contain all the information required in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
41. Issue K5 concerns the following violation: Failure, in some instances, to conduct first level appeal reviews using physicians who were not involved in the initial adverse determination. The Respondent shall provide evidence that it revised its first level appeal review procedures to ensure physicians who review these appeals were not involved in the initial adverse determination in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
42. Issue K6 concerns the following violation: Failure, in some instances, to notify members fifteen (15) days in advance of the hearing date for second level appeals. The Respondent shall provide evidence that it revised its second level appeal review procedures to provide notice of second level appeal hearings to ensure compliance with Colorado insurance law, or if ERISA notice requirements conflict with Colorado insurance law, to comply with Federal law.
43. Issue K7 concerns the following violation: Failure, in some instances, to ensure that second level appeal panels include a majority of health care professionals with appropriate expertise to review the case. The Respondent shall provide evidence that it revised its second level appeal panels' review procedures to include a majority of health care professionals with appropriate expertise to review the case to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

44. Issue K8 concerns the following violation: Failure to include all the required elements in written notifications of second level appeal rights. The Respondent shall provide evidence that it revised its procedures to ensure that all second level appeal notifications disclose all mandated rights of the person initiating the appeal in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
45. Issue K9 concerns the following violation: Failure to include all required elements in the written notification to the covered person of second level appeal decisions, including the right to an independent external review in the case of adverse appeal determination. The Respondent shall provide evidence that it revised its procedures to ensure that second level appeal notifications include all the required elements pertaining to the appeal decision and the person's right to an external review in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
46. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of thirty-three thousand five hundred and no/100 dollars (\$33,500.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
47. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
48. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
49. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in

the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.

50. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated October 9, 2003, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 6th day of February, 2004.

A handwritten signature in black ink that reads "Doug Dean". The signature is fluid and cursive, with the first letters of "Doug" and "Dean" being capitalized and prominent.

Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of February, 2004, I deposited the within
**FINAL AGENCY ORDER NO. O-04-142 IN THE MATTER OF THE MARKET
CONDUCT EXAMINATION OF UNITED HEALTHCARE OF COLORADO, INC.,**
in the United States Mail with postage affixed and addressed to:

Mr. Victor Lazzaro, President
United Healthcare of Colorado, Inc.
8051 East Maplewood Avenue, Suite 300
Greenwood Village, CO 80111

Jean Boord, Regional Compliance Director
United Healthcare of Colorado, Inc.
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Dolores Arrington, MA, AIRC
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